

3 FAM 3150

SPECIAL PAY PROVISIONS FOR SPECIAL AGENTS IN THE DIPLOMATIC SECURITY SERVICE

(CT:PER-639; 06-02-2011)
(Office of origin: HR/RMA)

3 FAM 3151 AUTHORITIES

(CT:PER-639; 06-02-2011)
(State Only)
(Applies to Foreign Service and Civil Service Employees)

Authorities are published in:

The Omnibus Consolidated and Emergency Supplemental Appropriations Act for FY 1999 (Public Law 105-277), Division A, Title IV –Department of State and Related Agencies, Section 407, and identical provision in Section 2316, Division G, of Public Law 105-277:

- (1) Section 403, 404, and 405, Federal Law Enforcement Pay Reform Act of 1990 (FLEPRA) (Public Law 101-509);
- (2) Section 404, Foreign Service Act of 1980, as amended;
- (3) 5 U.S.C. 5542;
- (4) 5 U.S.C. 5545(a);
- (5) 5 U.S.C. 7511 *through* 5 U.S.C. 7514; and
- (6) Delegation of Authority (delegating from the Undersecretary for Management to the Diplomatic Security (DS) Assistant Secretary authority to carry out Law Enforcement Availability Pay (LEAP)-related functions).

3 FAM 3152 DEFINITIONS

(CT:PER-639; 06-02-2011)
(State Only)

(Applies to Foreign Service and Civil Service Employees)

Official duty station: The duty station for the special agent's position of record as indicated on his or her most recent notification of personnel action.

Special agent: Except for purposes of determining eligibility for Law Enforcement Availability Pay as provided in 3 FAM 3155, a member of the Foreign Service, the Senior Foreign Service, the Senior Executive Service, or a GS-1811 criminal investigator, who both:

- (1) Holds valid credentials as a special agent in the Diplomatic Security Service issued by the Director, Diplomatic Security Service; *and*
- (2) Occupies a position with the Foreign Service primary skill code of 2501 or the Civil Service occupation code 1811.

Scheduled annual rate of pay:

- (1) The Foreign Service rate of basic pay for the member's class and step, exclusive of additional pay of any kind; *and*
- (2) The salary for the member's salary class in the Senior Foreign Service, exclusive of additional pay of any kind.

3 FAM 3153 BENEFIT OF SPECIAL RATES FOR SPECIAL AGENTS IN THE DIPLOMATIC SECURITY SERVICE

3 FAM 3153.1 Who is Covered

(CT:PER-639; 06-02-2011)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

Special *agents* in the Diplomatic Security Service *who are covered include*:

- (1) Foreign Service classes 9 through 5; and
- (2) General Schedule grades 3 through 10.

3 FAM 3153.2 Pay Setting

(CT:PER-639; 06-02-2011)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

- a. Pay for new appointments in the Foreign Service will be set no lower than:
- FS-9/8
 - FS-8/6
 - FS-7/5
 - FS-6/3
 - FS-5/2
- b. Pay for covered General Schedule employees will be set in accordance with section 403 of *the Federal Law Enforcement Pay Reform Act* (FLEPRA) and chapters 530 and 531 of 5 CFR.

3 FAM 3154 LAW ENFORCEMENT AVAILABILITY PAY (LEAP) FOR SPECIAL AGENTS IN THE DIPLOMATIC SECURITY SERVICE

3 FAM 3154.1 Definition of Special Agent

(CT:PER-639; 06-02-2011)

(State Only)

(Applies to Foreign Services and Civil Service Employees)

For purposes of 5 U.S.C. 5545(a) and 5 CFR 550.181 — 550.187, “special agent” means an employee of the Department of State who:

- (1) Holds valid credentials as a special agent in the Diplomatic Security Service issued by the Director, Diplomatic Security Service; and
- (2) Is otherwise eligible to receive *Law Enforcement Availability Pay* (LEAP) under 5 CFR 550.103(1), (3), (4), (5), or (6).

3 FAM 3154.2 General

(CT:PER-639; 06-02-2011)

(State Only)

(Applies to Foreign Services and Civil Service Employees)

Law Enforcement Availability Pay (LEAP) is provided in accordance with 5 U.S.C. 5545(a) and the regulations in 5 CFR 550.181 *through 5 CFR 550.187*.

3 FAM 3154.3 Involuntary Suspension of LEAP

(CT:PER-639; 06-02-2011)

(State Only)

(Applies to Foreign Services and Civil Service Employees)

- a. For Civil Service special agents, an involuntary suspension of *Law Enforcement Availability Pay (LEAP)* resulting from a denial or cancellation of certification under 5 CFR *550.184(d)* *must* be a reduction in pay for the purposes of applying adverse action provisions of 5 U.S.C. 7511 to 5 U.S.C. 7514 and 5 CFR 752.
- b. Notwithstanding 5 U.S.C. 7511(a)(1), the following procedures *must* apply in the case of Foreign Service special agents subject to involuntary suspension of LEAP resulting from a denial or cancellation of certification under 5 CFR *550.184(d)*:
 - (1) 5 CFR 752.404(b)(1);
 - (2) 5 CFR 752.404(c);
 - (3) 5 CFR 752.404(e); and
 - (4) 5 CFR 752.404(f).
- c. The following decertification procedures *must* apply to both Civil Service and Foreign Service special agents:
 - (1) **Responsibility for decertification:** The DS LEAP advisory panel has responsibility for proposing involuntary suspension of LEAP and denial and cancellation of LEAP certification;
 - (2) **Notice:** The DS LEAP advisory panel *must* notify the special agent of its proposal to decertify. Such notice *must* state the specific reasons for the proposed action and the time period permitted for an answer, and *must* inform the special agent of:
 - (a) The right to review the material, which is relied on to support the reasons for the proposal to decertify;

- (b) The right to respond orally and/or in writing; and
 - (c) The right to be represented by an attorney or other representative;
- (3) Answer: Upon receipt of the Diplomatic Security LEAP advisory panel proposal to decertify, the special agent may respond orally and/or in writing to the DS Assistant Secretary or the DS Assistant Secretary's designee:
- (a) A special agent assigned domestically has 15 calendar days from receipt of the proposal to respond to the DS Assistant Secretary or the DS Assistant Secretary's designee. Written responses from a special agent assigned domestically must be sent via registered mail with return receipt, cable, or facsimile transmission. Upon written request by the employee or the supervisor, the DS Assistant Secretary or the DS Assistant Secretary's designee may grant a reasonable extension of this deadline for good cause; and
 - (b) A special agent assigned abroad has 30 calendar days from receipt of the proposal to respond to the DS Assistant Secretary or the DS Assistant Secretary's designee. Written responses from a special agent assigned abroad must be sent via certified pouch, cable, or facsimile transmission. Upon written request, the DS Assistant Secretary or the DS Assistant Secretary's designee may grant a reasonable extension of this deadline for good cause;
- (4) Decision: No fewer than 30 days from the special agent's receipt of the proposal to decertify, the DS Assistant Secretary or the DS Assistant Secretary's designee *must* decide whether to decertify the special agent. The DS Assistant Secretary or the DS Assistant Secretary's designee *must* send the agent written notification of the decision, including the effective date of decertification and the right to appeal;
- (5) Effective date: Decertification and suspension of LEAP will be effective the first day of the first pay period following the DS Assistant Secretary's or the DS Assistant Secretary's designee's decision to decertify; and
- (6) Appeal Rights:
- (a) For Foreign Service special agents, the DS Assistant Secretary's or the DS Assistant Secretary's designee's

decision to involuntarily suspend LEAP may be appealed in accordance with the grievance procedures set forth in 3 FAM 4400; *and*

- (b) For Civil Service special agents, the DS Assistant *Secretary's* or the DS Assistant Secretary's designee's decision to involuntarily suspend LEAP may be appealed in accordance with 5 CFR 752.405.

3 FAM 3154.4 Salary for Assignments to Agencies, International Organizations, and Other Bodies

(CT:PER-639; 06-02-2011)

(State Only)

(Applies to Foreign Services and Civil Service Employees)

For Foreign Service special agents assigned to an agency, international organization, or other body under Section 503 of the Foreign Service Act and otherwise eligible to receive *Law Enforcement Availability Pay (LEAP)* under 5 CFR 550.103(6), LEAP *must* be treated as part of salary for purposes of 5 CFR 550.186(b).

3 FAM 3155 THROUGH 3159 UNASSIGNED